



MICHAEL J. SULLIVAN  
DIRECTOR

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411  
BOSTON, MASSACHUSETTS 02108  
(617) 727-8352  
(800) 462-OCPF

August 22, 1995  
AO-95-30

Mr. Morgan Palmer  
10 Tremont Street, Room 500  
Boston, MA 02108

Re: Name of political action committee

Dear Mr. Palmer:

This letter is in response to your August 2, 1995 request for an advisory opinion regarding your intent to reorganize a political action committee.

You were chairman and treasurer of the "Committee for Political Choice" political action committee (the Committee) from 1987 to 1993.<sup>1</sup> The Committee dissolved in 1993, and in 1994 you were a candidate for state senate. You are no longer a candidate, and you would now like to reorganize the Committee and serve as its treasurer.

Chapter 43 of the Acts of 1994 amended M.G.L. c. 55, the Massachusetts campaign finance law, to include new restrictions on the names which may be used by political committees. You would like to know if section 5B of c. 55, which was added by the 1994 legislation, allows you to name the reorganized committee "the Committee for Political Choice, a Political Action Committee."

Section 5B states that:

(a) Every political committee, other than a political party committee or a candidate's committee, shall name and identify itself in its organizational statement pursuant to section five by using a name or phrase that:

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<sup>1</sup> The Committee filed a Statement of Organization in 1990. As chairman and treasurer, you described the Committee's purpose as: "financial support to Republicans challenging incumbent Democrats (or running in open seats) for state senate and state representative seats."

(i) clearly identifies the economic or other special interest, if identifiable, of a majority of its contributors; and

(ii) if a majority of its contributors share a common employer, that identifies the employer.

(b) If the economic or other special interest or common employer are not identifiable under subsection (a), every such political committee shall name and identify itself in its organizational statement using a name or phrase:

(i) that clearly identifies the economic or other special interest, if identifiable, of a majority of its organizers; and

(ii) if a majority of its organizers share a common employer, that identifies the employer; and

(iii) if the committee is organized, financed, controlled or maintained by an individual, that identifies said individual.

(c) No political committee shall use any name other than the name included in its organizational statement.

(Emphasis added).

Your letter raises two questions: (1) does the name "Committee for Political Choice, a Political Action Committee" satisfy the requirements specified in section 5B(a); and (2) if not, does the name satisfy the requirements specified in section 5B(b)?

1. The name does not satisfy the requirements of section 5B(a).

The name does not clearly identify an economic or other special interest of a majority of contributors. If the purpose of the Committee remains the support of Republican candidates, a sufficiently descriptive name would have to identify that interest.<sup>2</sup>

Assuming a majority of contributors do not share a common employer and you are not able to use a name that clearly identifies the economic or other special interest of a majority

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<sup>2</sup> You should note, however, that M.G.L. c. 56, s. 40 states that organizations cannot use the name of a political party in circulars, advertisements or publications, except with the written consent of the duly elected state committee representing such political party. Therefore, you may not use the name "Republican" in the PAC name unless such authorization is received in advance.

of contributors to the Committee, you must name the Committee in a manner which is consistent with section 5B(b).

2. Based only on the facts in your letter, the name does not appear to satisfy the requirements of section 5B(b).

Assuming you are the only organizer of the PAC, section 5B(b), read literally, requires your committee to use a name or phrase that not only identifies your economic or special interest, if identifiable, but also that identifies you, (e.g., if you are not able to identify your economic or special interest, the Committee's name might be "the Morgan Palmer Political Action Committee for Political Choice"). The name "Committee for Political Choice, a Political Action Committee" would comply with neither requirement.

A person "organizes" a PAC when the person signs the statement of organization as chairman, or takes other significant action to initiate the PAC. A person is "financing" a PAC when such person takes significant action, such as agreeing to lend his or her name to a fundraising letter, and that action (1) is designed to raise a significant portion of the PAC's funds; (2) actually raises a significant portion of the PAC's funds; or (3) significantly influences the manner in which the PAC obtains contributions. See AO-95-01. A person would be deemed to be "controlling" the PAC if the person is able to determine how the PAC's funds are raised or spent. For example, if a person could decide who received contributions from the PAC, the person would be deemed to be controlling the PAC. Webster's New Collegiate Dictionary defines "maintain" as "to keep in an existing state." A person who "finances" or "controls" a PAC would be deemed to also be "maintaining" the PAC.

If section 5B(b)(iii) is read literally, many political action committees would have to include, in their names, not only the names of the persons who organized the committee, but also the persons who finance the committee, the persons who determine the recipients of contributions from the committee, and the persons who otherwise maintain the committee. It is not conceivable that the Legislature intended section 5B to have such an unreasonable effect.

Although generally every word of a statute must be given full force and effect and a statute must be read literally, such a construction is not appropriate if it leads to absurd or unreasonable consequences. Attorney General v. School Committee of Essex, 387 Mass. 326, 336 (1982). See also M.G.L. c. 4, s. 6 (statutes cannot be construed in a manner which is "inconsistent with the manifest intent" of the Legislature), and Sutherland, Statutory Construction, s. 46.07, 5th ed., 1992.

In construing subparagraph (b)(iii) of section 5B, it is appropriate to look to other parts of the statute. See Morrisson v. Lennett, 415 Mass. 857, 863 (1993) (words and

phrases used in a statute should be construed by reference to associated terms). In subparagraph (b)(iii) the Legislature specified that a committee organized, financed, controlled or maintained "by an individual" must use a name identifying "said individual." Such use is in distinct contrast to the rest of section 5B, which requires the name to identify the interests of a majority of "contributors" or "organizers."

Moreover, in addition to considering the context, it is also appropriate to consider the main purpose of the statute. Section 5B seeks, where the economic or special interest of a majority of contributors cannot be identified from a PAC's name, to ensure disclosure of the identity of an individual who controls a PAC. This purpose is accomplished by reading the "or" in section 5B(b)(iii) as an "and."<sup>3</sup>

Therefore, subparagraph (b)(iii) should be applied only where a committee is organized, financed, controlled and maintained by one individual. If a person can be described as having organized and financed a PAC, and the person also controls and maintains the PAC, then that person's name, or a phrase identifying the person, must be included in the PAC's name if the economic or special interest of a majority of contributors is not identified in the committee's name.

### 3. Conclusion.

Based on the limited facts contained in your letter, and a review of campaign finance reports filed by the Committee for Public Choice between 1987 and 1993, we are unable to offer an opinion regarding whether "Committee for Political Choice, a Political Action Committee" complies with section 5B.

Since the name does not reflect the economic or special interest of a majority of contributors or organizers, it does not comply with section 5B(a).

If you are not able to identify the economic or special interest of a majority of contributors, and if you are "organizing" the PAC, the name must be changed to reflect your economic or special interest, if it is identifiable, to comply with section 5B(b)(i). In addition, if you are not only organizing the PAC, but will also "finance," "control" and "maintain" the PAC, as those terms are defined in this opinion,

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<sup>3</sup> Section 5A states, in part, that "[n]o candidate or individual holding elective public office shall establish, finance, maintain, control or serve as a principal officer of a political action committee. . .," (emphasis added). In the context of section 5B, "or" must be read conjunctively to achieve the law's purpose of accurate disclosure. In section 5A, however, the word must be given its literal meaning. In contrast to section 5B, the literal reading of "or" in the context of section 5A does not lead to absurd results. Moreover, such a reading is consistent with the restrictive purpose of section 5A.

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the PAC's name would have to be changed to include your name or a phrase which identifies you to comply with section 5B(b)iii.

This opinion has been rendered solely on the basis of representations made in your letter, and solely in the context of M.G.L. c. 55. Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,

A handwritten signature in cursive script, reading "Michael J. Sullivan". The signature is written in dark ink and is positioned above the printed name and title.

Michael J. Sullivan  
Director

MJS/cp